IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 23997 of 2005
To
SPECIAL CIVIL APPLICATION No. 24000 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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DHIRAJLAL NARBHERAM THAKKAR - Petitioner(s)
Versus
SARDAR BHUILADVALA PARDI PEOPLES' CO-OP BANK LTD & 4 - Respondent(s)

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Appearance :
MR ANSHIN H DESAI for Petitioner(s) : 1,
MR BS PATEL for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 03/07/2006

ORAL JUDGMENT

1. Rule. Learned advocate Shri B.S.Patel wavies

service of rule on behalf of respondent no.1. Learned advocate Shri Desai for petitioner seeks permission to delete rest of the respondents. Permission granted.

2. By joint request made by learned advocates appearing for the parties the petitions are taken up for final disposal today.

3. The petitioner is common in all the petitions. The petitioner has challenged different orders passed by the Co-operative Tribunal against the petitioner. The Co-operative Tribunal passed a common impugned order on 24th September, 2002 against the petitioner the judgment and decrees passed by the Lavad Court were confirmed. Short ground that is raised by the petitioner in this group of petitions is that the petitioner was not the member of the respondent Co-operative Bank and the petitioner had neither stood as guarantor nor directly taken the loan which were sought to be recovered from the petitioner. Short contention of the learned advocate for the petitioner, therefore, is that the Board of Nominees has no jurisdiction to entertain the Lavad suit against the petitioner.

4. Though it is true that the proceedings has gone ex-parte against the petitioner; before the Co-operative Tribunal, the petitioner had taken specific contentions regarding the maintainability of the Lavad Suit against him. Despite this, the

proceedings came to be held against the petitioner by the Co-operative Tribunal.

5. After some discussion at the bar, the petitions were adjourned to today and learned advocate Shri Patel under instructions stated that the petitioner is factually correct in contending that he was not the member of the respondent bank. Learned advocate Shri Patel, therefore, could not point out as to how the proceedings against the petitioner would lie before the Board of Nominees. On this short ground, therefore, the proceedings are required to be quashed.

6. The common order passed by the Co-operative Tribunal against the petitioner is, therefore, set aside. Judgment and decrees passed against the petitioner by the Board of Nominees are also, therefore, quashed. It will be open for the respondent to take such legal steps against the petitioner as available under the law.

7. With these directions, petitions are disposed of. Rule made absolute. No costs.

(Akil Kureshi, J.)

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